

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                         |   |                              |
|-------------------------|---|------------------------------|
| DARDEN CORPORATION,     | ) |                              |
| A Florida Corporation,  | ) | Civil Action No. 09-cv-07854 |
| Plaintiff,              | ) |                              |
|                         | ) | Judge Kendall                |
| v.                      | ) |                              |
|                         | ) | Magistrate Judge Denlow      |
| PROVENZANO FILMS, INC., | ) |                              |
|                         | ) |                              |
| Defendant.              | ) |                              |

**PLAINTIFF'S MOTION PURSUANT TO DEFAULT AND PROVE-UP FOR  
ENTRY OF JUDGMENT AND PERMANENT INJUNCTION**

Now comes Plaintiff, Darden Corporation (hereinafter "Darden" or "Plaintiff") with its Motion for this Court to enter judgment and permanent injunction against Defendant Provenzano Films, Inc. (hereinafter "Provenzano Films" or "Defendant") pursuant to the Court's prior entry of default against Defendant and scheduling of this filing for today June 7, 2010 and the prove-up hearing, if any is necessary, is set for June 10, 2010. In support hereof the Plaintiff is also submitting its Memorandum and draft Judgment and Permanent Injunction.

1. Plaintiff, Darden Corporation is a corporation organized and existing under the laws of the State of Florida, with its principal place of business located at 1000 Darden Center Drive, Orlando, FL 32837.
2. Defendant, Provenzano Films, Inc. is a corporation with a principal place of business and/or residence located at 63 Irving Street, Jersey City, NJ 07307.
3. On December 18, 2009, Plaintiff Darden filed this action against Defendant Provenzano alleging causes of action for trademark infringement under federal

and state law, cybersquatting under federal law, unfair competition under federal and common law, trademark dilution under federal and state law, and deceptive trade practices under Illinois law. The causes of action arise from, among other things, Defendant's alleged use of a series of Plaintiff's federally registered trademarks **THE CAPITAL GRILLE, LONGHORN STEAKHOUSE, and RED LOBSTER** through use and/or registration of the domain names **capitalgrilleshop.com, capitalgrillesite.com, capitalgrillestore.com, longhornsteakhouseonline.com, longhornsteakhouserestaurant.com, longhornsteakhousesite.com, longhornsteakhousestore.com, myredlobsterrestaurant.com, onlineredlobsterrestaurant.com, and redlobsterrestaurantstore.com** (hereinafter referred to as the "Domain Names").

4. As previously submitted to the Court in the entering of the default, on January 23, 2010, Plaintiff's process server, Callahan Lawyers Service, served the Summons and Complaint on the Registered Agent for Provenzano Films by tendering a copy of said documents to Patricia Sheridan, the named Registered Agent for the Defendant corporation, at the address listed for the Registered Agent in Defendant's corporate information provided to the State of New Jersey. Provenzano Films' answer to this lawsuit was due on February 12, 2010. Provenzano Films failed to answer, plead or otherwise defend the allegations of Plaintiff's Complaint.

5. Plaintiff filed with the Court its Notice of Motion for presentment of its Motion for an entry of default judgment on April 19, 2010. The Court heard Plaintiff's Motion on April 22, 2010 and granted Plaintiff's Motion for entry of default judgment.

The Court entered default against Provenzano Films on April 22, 2010 and scheduled prove-up for June 10, 2010.

6. Plaintiff Darden by way of its affiliated companies under license operates its restaurants and promotes, offers and sells its goods and services under and in conjunction with the following trademarks **THE CAPITAL GRILLE**, **LONGHORN STEAKHOUSE**, and **RED LOBSTER**, which copies of the registration certificates and record title documents are attached as Exhibits 2 through 13 to the accompanying Memorandum in support of this Motion:

| Registration No. | Mark                                                | Registration Date  |
|------------------|-----------------------------------------------------|--------------------|
| 1998115          | LONGHORN STEAKHOUSE                                 | September 3, 1996  |
| 3032066          | THE CAPITAL GRILLE                                  | December 20, 2005  |
| 1067005          | RL RED LOBSTER FINE SEAFOOD<br>OYSTER BAR           | May 31, 1977       |
| 1069147          | RED LOBSTER                                         | July 5, 1977       |
| 1128443          | RED LOBSTER                                         | December 25, 1979  |
| 1438742          | RED LOBSTER                                         | May 5, 1987        |
| 1557991          | RED LOBSTER                                         | September 26, 1989 |
| 1579587          | RED LOBSTER QUALITY SINCE 1968<br>INSPECTED SEAFOOD | January 23, 1990   |
| 1101522          | RED LOBSTER                                         | September 5, 1978  |
| 1502609          | RED LOBSTER                                         | August 30, 1988    |
| 1672209          | RED LOBSTER TO GO                                   | January 14, 1992   |
| 2015236          | RED LOBSTER                                         | November 12, 1996  |

These registrations, which issued on the Principal Register, are in full force and effect and many have long since acquired “incontestable” registration status as shown by the records attached to the Memorandum as Exhibits 2 through 13.

7. Defendant Provenzano Films’ failure to defend and deny the allegations of Plaintiff’s Complaint results in those allegations being admitted against Defendant. The actions of Defendant therefore constitute violations of the trademark infringement, unfair

competition, cybersquatting, dilution and deceptive trade practice laws set forth within the Complaint.

8. For the facts and reasoning set forth in Plaintiff's accompanying Memorandum in support of this Motion, the relevant legal authority and the records of this case, Plaintiff respectfully requests that this Court enter the attached Judgment and Permanent Injunction (Exhibit 1 to the Memorandum) against Defendant Provenzano Films ordering transfer of the Domain Names to Plaintiff, and awarding Plaintiff statutory damages in the amount of \$25,000 per domain name for each of the ten (10) domains involved for a total amount of \$250,000. The sum represents only about one-fourth that which the Court could award as statutory damages.

9. Wherefore, Plaintiff prays for the entry of the Judgment and Permanent Injunction, attached as Exhibit 1 to the Memorandum.

Respectfully submitted,

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By: /s/ Burton S. Ehrlich  
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